UNITED NATIONS

E

Economic and Social Council

Distr.
GENERAL

E/CN.4/1996/145
2 April 1996

Original: ENGLISH/ARABIC

COMMISSION ON HUMAN RIGHTS
Fifty-second session
Agenda item 10

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Letter dated 29 March 1996 from the Permanent Representative of the Sudan to the United Nations Office at Geneva, addressed to the Assistant Secretary-General for Human Rights

Upon instructions from my Government, I have the honour to enclose herewith the response of the Government of the Sudan to the report of the Special Rapporteur, Mr. Gáspár Bíro, submitted in accordance with resolution 1995/77 of the Commission on Human Rights, contained in document E/CN.4/1996/62 of 20 February 1996.

I would be very grateful if you would kindly circulate the text of the present letter and its enclosure* as an official document of the fifty-second session of the Commission on Human Rights under agenda item 10 (b).

(Signed) Ali Ahmed Sahlool
Ambassador
Permanent Representative

---

* The enclosure is reproduced as received in the languages of submission only.

CONTENTS

	Paragraphs	Page
INTRODUCTION----------	1-75	3
I. **REPORTED HUMAN RIGHTS VIOLATIONS**----	76-145	19
A. Violations by the Government of the Sudan----------	76-140	19
B. Abuses by parties to the conflict in southern Sudan other than the Government of the Sudan----------	141-143	39
C. Restrictions upon the provision of humanitarian assistance in southern Sudan----	144-145	39
II. **CONCLUSIONS AND RECOMMENDATIONS**----	146-158	40
A. Conclusions----------	146-156	40
B. Recommendations----------	157-158	43
Annexes 1-5		

INTRODUCTION

1. This introductory part of our response is intended to put the report of the Special Rapporteur contained in document (E/CN.4/1996/62) of 20 February 1996 in its proper context and perspective. Section I of the response is a detailed paragraph by paragraph response to all the allegations noted by the Special Rapporteur, and Section II contains our conclusions and recommendations.

2. At the outset we refer to the fact that out of the 104 paragraphs of the report of the Special Rapporteur, 82 paragraphs are identical, word by word, to the 82 paragraphs of his interim report of 16 October 1995 submitted to the Fiftieth session of the UN General Assembly, nevertheless no mention was made to our elaborate response to the interim report contained in document (A/C.3/50/10) of 27 November 1995. We believe that the logical conclusion to be drawn from such unjustifiable attitude is that the Special Rapporteur is not concerned with the verification of the allegations referred to in those 82 paragraphs but with the repetition of the allegations, otherwise he would have referred to our response to those allegations if it was only to say that it is not convincing.

Compliance with the resolution of the UN General Assembly

3. **First**: the resolution on the situation of human rights in the Sudan adopted by the Fiftieth session of the UN General Assembly in 1995 has urged, in paragraph 2, the Government of the Sudan to investigate without delay the cases of slavery, servitude, slave trade, forced labour and similar practices brought to its attention and to take all appropriate measures to put an immediate end to these practices. That request was made as measure to verify and respond to the allegations contained in paragraphs 27-33 of the interim report of the Special Rapporteur submitted to the General Assembly. On its part, the Government has responded positively and complied with that paragraph by establishing a committee to investigate as contemplated by the resolution (Annex 2). Surprisingly, the Special Rapporteur made no efforts to acquaint himself with the initiative of the Government of the Sudan in that regard and once again repeated the same allegations of slavery, servitude, slave trade, forced labour and similar institutions and practices in paragraphs 33-39 of his report.

4. **Second**: the same above-mentioned resolution of the General Assembly has also called upon the Government of the Sudan in paragraph 14 to extend to the Special Rapporteurs of the Commission on Human Rights on religious intolerance and on freedom of expression its full cooperation including inviting

them to visit the Sudan. In compliance with that paragraph the Government of the Sudan has promptly extended invitations to both of them to visit the Sudan (Annex 1).

Recent cooperation with other entities of the UN working in the field of human rights

5. **First**: by a letter dated 11 December 1995 the Working Group on Enforced and Involuntary Disappearances has requested the Government of the Sudan to investigate certain cases. No time was wasted and the request of the Working Group was also complied with by establishing a committee presided over by a legal counsel of the Ministry of Justice of the Sudan who is also a member of the Advisory Council for Human Rights (Annex 4) and the Committee has already submitted its first progress report (Annex 5).

6. **Second**: in its report of 15 December 1995 contained in document (E/CN.4/1996/40) the Working Group on Arbitrary Detention has reported that it has been informed that detainees in some countries (including the Sudan) has been released, quote "in some of the cases, the Working Group was informed, either by the Government or by the source, that the persons concerned had been released from detention. Such releases were reported in Bahrain, Bhutan, China, Ecuador, Guatemala, India, Peru, Sudan, Thailand, Tunisia and Turkey. The Working Group wishes to thank those Governments which heeded its appeal to provide it with information on the situation of the persons concerned, and in particular the Governments which released such persons."

7. **Third**: by a letter dated 6 November 1995, H.E. Mr. Jose Ayala-Lasso, the High Commissioner for Human Rights, has requested the Government of the Sudan to establish National Committees for human rights education. Once again the Government of the Sudan has shown its firm commitment to the benevolent cause of human rights by establishing such committees in all its 26 States (Annex 3).

The transition to democracy in the Sudan

8. The transition to democracy in the Sudan which has started by the appointment of the Transitional National Assembly in 1991 followed by the dissolution of the Revolutionary Command Council and by the parliamentary elections at States level has reached it climax by the promulgation of the Constitutional Decree No. 13 of 1995 and the Public Elections Act of 1995 whereby a free, fair and democratic elections have been conducted in the Sudan for the national parliament and the President of the Republic during the period 6-18 march 1996. More than 50 foreign observers have come to the Sudan to observe the election process all over the country. Those observers included the following:-

-Representatives of the UN Electoral Unit.
-The Organization of the African Unity Election Observers.
-Representatives of the Organization of the Islamic Countries.
-Representatives of the Arab League.
-Parliamentary delegations from different countries.
-NGOs.

9. In that connection we quote from the statement made by the election observers of the Organization of the African Unity: "the OAU election observer mission to the Sudan led by Ambassador Kemoko Keita arrived in Sudan on 4 March 1996 and observed the election process for its duration including the counting of the ballots. The OAU mission was based in Khartoum and traveled extensively through out the country. The elections in the Sudan was clearly much more than just another routine opportunity for the people to exercise their democratic right to choose their representatives. The elections is a historic occasion, the first direct presidential elections in the Sudan and the first time the voters in the newly democratic States have the opportunity to select their representatives to the new National Assembly".

10. Also the representative of the Arab League who has observed the elections has described it as an important constitutional development. Likewise, the representatives of the OIC have made similar positive remarks.

11. Nevertheless, the Special Rapporteur has made no reference whatsoever to that important constitutional development in the Sudan.

A historical background

12. The reference made by the Special Rapporteur in paragraph 3 of his report that his request for a permission to undertake a mission to the Sudan was not responded to, was not an accurate reporting of the facts of the case. Therefore, we deem it appropriate to introduce our response to the report by the following historical background.

13. The Commission on Human Rights has discussed the situation of human rights in the Sudan, for the first time, at its Forty-seventh session in 1991 soon after the application of Islamic Laws in the Sudan in January 1991. On 12 May 1992, the Chairman of the Commission on human rights appointed Mr. Gaspar Biro as an independent expert for the Sudan.

14. The independent expert has visited the Sudan and spent six working days from 21 to 26 November 1992 and has described the attitude of the Government of the Sudan towards the mission, in his report, as follows:- " The independent expert must point out from the very beginning that both the

Sudanese Mission and the Government of the Sudan have been very cooperative and that the schedule agreed upon with Ambassador Mohamed was fully accomplished".

15. Before the submission of the report of the independent expert to the Forty-ninth session of the Commission on Human Rights, the General Assembly of the United Nations was called upon to address the issue of human rights situation in the Sudan at the insistence of some circles, which were not happy with the application of Islamic Laws in the Sudan.

16 As a result, the General Assembly adopted resolution 47/142 of 18 December 1992 on the situation of human rights in the Sudan expressing " its deep concern at the serious human rights violations in the Sudan " and despite the objections of the Government of the Sudan to that resolution, which has pre-empted the mission of the independent expert, nevertheless it has respected the will of the international community and has taken all necessary measures to comply with that resolution.

17. The above-mentioned resolution of the General Assembly, coupled with the insistence of some circles to escalate their confrontation with the Government of the Sudan had a drastic impact on the Commission on Human Rights at its Forty-ninth session in February 1993. That impact was exemplified by the neglect of the Commission on Human Rights of the recommendations of its Working Group on country situations to extend the mandate of the independent expert as called for by his report:"...he could not dedicate enough time and effort to study the situation of churches and different ethnic and racial minorities and contact directly the individuals concerned". And so the Commission decided, by resolution 1993/60 of 10 March 1993, that the situation of human rights in the Sudan should be examined under public procedures. On 30 march 1993, the Chairman of the Commission on Human Rights appointed Mr. Gaspar Biro himself as Special Rapporteur for the Sudan.

18. The Special Rapporteur has addressed a letter dated 29 July 1993 to the Government of the Sudan requesting an official visit to the country and he received a prompt official invitation in a letter dated 9 August 1993. Such a quick response shows the extent of the respect of the Government of the Sudan for the will of the international community and its readiness to cooperate. The Special Rapporteur visited the Sudan from 11 to 13 September 1993, and from 14 to 17 December 1993.

19. In paragraph 24 of the interim report submitted to the 48th session of the General Assembly the Special Rapporteur made the following remarks:- " the Government of the Sudan cooperated with the Special Rapporteur by arranging the meetings he had requested...and ...the Government of the Sudan further facilitated visits to the locations the Special Rapporteur wished to see. No

objections were raised by the Government of the Sudan against a visit to SPLA controlled areas in Southern Sudan and the Nuba Mountains...".

20. There is no doubt that the attitude reflected by the remarks quoted above is one of full and unreserved cooperation and assistance to the Special Rapporteur in the discharge of his duties, and that the Government of the Sudan has ensured that the Special Rapporteur had free and unlimited access to any person in the Sudan whom he wished to see. Actually, it was only when the Special Rapporteur has acted ultra vires his mandate by calling for the abolition of Islamic Laws in violation of the basic right of freedom of religion, as will be explained in great detail later on, the Special Rapporteur was denied access to the Sudan.

Reservations against the Special Rapporteur

21. It is worth mentioning in this connection that the Sudan is not alone in making reservations on the report of the Special Rapporteur, since many countries, including the USA, have done so.

22. However, the Government of the Sudan, out of respect to the UN machinery in the field of human rights, has extended its cooperation to the Special Rapporteur in the manner explained above despite the numerous reservations it has against him including the following:-

23. He lacks experience and professionalism. In paragraph 14 of our comments on his interim report (A/C.3/48/17) dated 23 November 1993 we have explained, for example, how he has failed to distinguish between " allegations " and " evidence", a distinction which is very pertinent to his mandate. Another example is his failure to set an objective criteria for judging the credibility and reliability of the information as expressly requested by paragraph 5 of resolution 1993/60. The fact that the Special Rapporteur does not meet the qualifications provided for in resolution 1993/60 reflects on all his reports which are nothing more than a mere collection of allegations instead of being a careful verification of those allegations in the light of the internationally recognized concepts of evidence including admissibility, weight, and corroboration of evidence but no where in his reports do we find reference to those fundamental concepts.

24. In fact, paragraph 5 of resolution 1993/60 has made a very clear distinction between two different concept: the weight of evidence and the admissibility of evidence. That distinction is recognized by all legal systems and is very basic to the kind of reporting entrusted to the Special Rapporteur and has of late been recognized by the Commission on Human Rights, nevertheless we do not want to take credit by claiming that the recognition of the issue was made in response to the justifiable protest of the Sudan. But as is clear from all reports the Special Rapporteur has missed the point and it seems

that he is not even aware of that distinction, and that in itself explains why all his reports, were a real confusion depending almost in all instances on hearsay evidence which is not only without any evidential value, but also inadmissible in all jurisdictions.

25. Naturally, a misunderstanding of the central theme of the mandate, that is credibility, reliability and admissibility of evidence, would not produce better reports than the reports of the Special Rapporteur which are mere collections of allegations and hearsay evidence as we have already explained.

26. In addition to lack of experience and professional ability, the Sudan has even a more serious reservation against the Special Rapporteur, and that is his lack of credibility. In substantiation of such claim we will summarize below the improvements which have taken place in the Sudan and which the Special Rapporteur has deliberately declined to report in addition to his failure to refer to the most recent developments already referred to above. Such attitude is not novel to the Special Rapporteur since he has also declined to report many incidents favourable to the Government of the Sudan which have taken place during his last visit to the Sudan, for example the cancellation of his visit to the Kajo Kaji and Juba in December 1993 after the Government has given its approval which proves that the Government was in fact willing to give free access to all parts of the country. Undoubtedly such incident refutes the accusations levelled by him against the Government in this respect. Moreover, he has also declined to report the invitation, turned down by him, to attend a seminar on the rights of the child convened under the auspices of the Sudanese National Council for Child Welfare and UNICEF, despite the fact that no better chance could have been made available for him to have a close scrutiny of Sudan's advanced legislation in the field of the rights of the child about which he has reported negatively in paragraphs 40-56 of his interim report. Another incident in this connection is his refusal, while in the Sudan in 1993, to attend the court sessions of the trials of some of the persons about whom he has previously inquired, preferring to report that he, quote, " sincerely hopes that their trial.....will be in conformity with the international standards for a fair trial and that independent monitors will be allowed to attend the trial".

27. Despite all these numerous and well founded reservations the Government of the Sudan has continued to cooperate with the Special Rapporteur in the manner acknowledged by him in some of his previous reports, and he was only denied access to the Sudan when he acted ultra vires his mandate by calling for the abolition of Islamic Laws in his February 1994 report, as explained below.

The main reason for not cooperating with the Special Rapporteur is his call for the abolition of Shariah Laws

28. When explaining above that the situation of human rights in the Sudan was discussed for the first time by the Commission on Human Rights at its Forty-seventh session in 1991, the most pertinent question that comes readily to mind is why had the discussion begun at that specific date, two years after the present Government in the Sudan has assumed power on 30 June 1989, despite the fact that the early months of assumption of power by any revolutionary government are usually tainted with violations of human rights.

29. However, if we relate the beginning of the discussion to paragraphs 30-32 of his current report and the corresponding recommendations regarding the inconsistency of the Sudan Islamic legislation with international norms, one would comfortably reach the conclusion that the discussion has begun at the Forty-seventh session in 1991 because that session was the first session to be convened after the application of Shariah in the Sudan in early 1991. So one should not loose sight of the relationship between the application of Shariah and the beginning of the attack on the human rights record of the Sudan. That relationship explains why the Special Rapporteur has tailored that report and all his subsequent reports including the present report in such a manner as would make his call for the abolition of Shariah legislation appear objectively justified. Actually that relationship is the backbone of all his reports and shows how the noble issue of human rights has been manipulated to wage war against Islam. What we are really confronted with are not ordinary human rights reports reflecting the legitimate concern of the international community but a flagrant attack on Islam which goes far beyond the Sudan.

30. In that worldwide champaign Amnesty International has taken the lead of NGOs in calling for the abolition of Shariah Laws in the Sudan by publishing its book, " The Tear of Orphans " where it has expressly called on page 128 for, quote: "the Government (Sudan) should abolish cruel, inhuman or degrading punishments in Law. The punishments of stoning to death, crucification, mutilation and flogging should be removed from the Penal Code 1991".

31. As a result of the call for the abolition of Shariah legislations contained for the first time in the report of the Special Rapporteur dated February 1994, the Government of the Sudan has, as we have already noted, decided not to cooperate with him and requested certain measures to be taken by the Commission on Human Rights.

32. As for the similar call by Amnesty International the Government of the Sudan has responded elaborately in document (E/CN.4/1995/174) dated 29 March 1995 explaining that Amnesty International is challenging Shariah Laws not because Shariah Laws are inconsistent with human rights laws but because Amnesty International is politically motivated against Islam and would not tolerate seeing its laws applied anywhere in the world.

33. Not much attention was given to the explanations of the Government of the Sudan regarding the political nature of the activities of Amnesty International until the British Courts ruled, on 4th July 1995 in Regina V. the Radio Authority, that the activities of Amnesty International are of a political nature and should not be broadcasted so as not to mislead the public opinion. Consequently, we have every reason to believe that if the reports of the Special Rapporteur were to be contested before any courts of Law, they would be judged as being politically motivated and are inclined to mislead the public opinion.

34. The final Communiqué of the OIC Annual Coordination Meeting of the Ministers of Foreign Affairs held at the United Nations, New York on 3 October 1994, has affirmed in paragraph 42 that any criticism of the principles of the Islamic Shariah is inadmissible and unacceptable, nevertheless the Special Rapporteur is still maintaining the challenge in paragraph 30 of his current report, quote: " the Commission on Human Rights called upon the Government of the Sudan to comply with international human rights instruments and to bring its national legislation, which would include the 1991 Criminal Act and legislation regarding the rights of the child and the civil status of women, into accordance with the instruments to which the Sudan is a party."

35. Undoubtedly, such challenge to Islam is unprecedented in all UN forums and should be the urgent concern of all Muslims because we believe that no Islamic country is in a position to amend the provisions of the Holy Quran, which are the sources of those legislations, as called for by the Special Rapporteur.

36. As for the substance of that indirect call by the Special Rapporteur for the abolition of Shariah Laws summed up in paragraph 104 (a) of his report, we will explain how such a call is a violation of the freedom of religion when we respond to paragraph 32 of the report.

37. In this regard we believe that the recommendations contained at the end of this response would provide a practical alternative to overcome the stalemate created by the remarks made by the Special Rapporteur in connection with Shariah legislations in the Sudan.

38. As for the countries members of the Organization of the Islamic Conference (OIC) we clarify that any voting in favour of the Sudan resolution would mean a full support for the report upon which the resolution is to be based and therefore such voting would, in effect, be an approval of the call for the abolition of Shariah legislations which was described as inadmissible by the OIC foreign ministers as explained above. On the other hand, voting for such resolution would make the call for the abolition of Shariah legislations originating from the Commission and not from the Special Rapporteur, and therefore no Islamic nation on earth should tolerate such a measure, since it

would prevent all Islamic countries, not only the Sudan, from applying Islamic Laws.

39. Furthermore, we note that the Special Rapporteur, Mr. Abdel Fatah Omer appointed by resolution 23/1995 was keen to refer in his report contained in document (E/CN.4/1996/ADD.1) of 2 January 1996 to the fact that Islam does not contradict with human rights.

The deployment of monitors is costly and unjustifiable in the light of the open-door policy adopted by the Sudan and its cooperation with all UN human rights agencies

40. To comply with the recommendations of the Special Rapporteur contained in his report submitted to the Fifty-first session of the Commission on Human Rights, the Commission, in its resolution 1995/77 of 8 March 1995, has mandated the Special Rapporteur to "assess possibilities, regarding the deployment of human rights monitors in such locations as would facilitate improved information flow".

41. Responding to such mandate the Special Rapporteur has the following to say in paragraph 6 of his report, quote: " the Special Rapporteur has submitted a plan for the implementation of a monitoring operation calling for the placement of monitors in three locations: Lokichokio-Kenya, Pakelle-Uganda, and Asmara-Eritrea."

42. So, as is clear from the above, the Special Rapporteur has been mandated to " assess the possibilities " regarding the deployment of human rights monitors, but rather than doing that the Special Rapporteur took it upon himself to submit a plan for the implementation of a monitoring operation in three locations two of them in countries hostile to the Sudan (Uganda and Eritrea).

43. Nevertheless, our primary concern regarding the deployment of the monitors is not the motivation of the Special Rapporteur, despite the importance of that dimension, but the merits of that alternative. In fact we have many reasons for claiming that such alternative is not justifiable leaving aside its financial implication which is in itself a major concern.

44. First: the Sudan is adopting an open-door policy in the field of human rights which has resulted in receiving international dignitaries and organizations and allowing them to verify all allegations as we have explained on many previous occasions. Those dignitaries and organizations include the following:-

- The Pope, John Paul II.
- The Archbishop of Canterbury.

- The EU-ACP delegation.
- A member of the British House of Lords.
- Members of the British House of Commons.
- The International Commission of Jurists (ICJ).
- The American Lawyers Committee.
- Parliamentarians from western countries.
- The Human Rights Watch.
- Cabinet Ministers from Western countries.
- A delegation from the African Commission on Human Rights.

(the Government has officially agreed to the visit and it was left for the delegation to fix the date).

45. The dignitaries and organizations referred to in paragraph 44 above have prepared extensive reports about human rights in the Sudan after having interviewed government officials and politicians and after having visited different places in the Sudan. so the main objective of the deployment of monitors which is to provide for flow of information from the Sudan has become redundant since the information about the situation of human rights in the Sudan is available in abundance in the reports of those dignitaries and organizations at no cost to the UN. Furthermore, the open-door policy of the government is permanent and anyone who is interested in visiting the Sudan is most welcomed.

46. Second: in addition to that, we refer to the invitations recently extended to the Special Rapporteurs of the Commission on Human Rights on religious intolerance and on freedom of expression as explained above. We have no doubts in our minds that they will be in a position to get a first hand information thereby guaranteeing a better flow of information compared with the proposed monitors who would only receive hearsay evidence from elements hostile to the Government. Moreover, the proposed monitors would not be in a position to verify many alleged violations like torture, arbitrary detention....etc.

47. Third: the fact that two of the proposed locations for the placement of monitors are in countries hostile to the Sudan would reflect negatively on their ability to receive any information advantageous to the Sudan.

48. Fourth: regarding the quality of reporting it is clear from the list of dignitaries and organizations referred to above and from the invitations recently extended, that the extent of their credibility and concern for human rights is beyond any challenge, and consequently we do not believe that the monitors would be equally credible or concerned about human rights.

49. Fifth: another source through which information is flowing from the Sudan is the UN agencies and representatives working in the field of human rights with which the Government of the Sudan has good working relations and extensive cooperation. Such cooperation has been officially acknowledged by

UN agencies, a most recent example of which is the letter of the Special Rapporteur on Torture of the Commission on Human Rights dated 18 September 1995 addressed to the Sudan Permanent Representative in Geneva, quote: " I am in receipt of communications from your Government (Sudan Government) dated as follows: a) 4 April 1995, reply to urgent appeals of 9 to 16 January 1995 for Mustafa Abdel Gadir and Ali Mohamoud Hassaneian; b) 12 June 1995, reply to urgent appeal of 8 June for Joseph Meno and Hashim Zeyada; c) 23 June and 2 August 1995, replies to urgent appeal of 25 May 1995 for Sayed Sadig Elmahdi; I am grateful for those responses."

50. These frequent responses by the Government of the Sudan, for which the Special Rapporteur on Torture has expressed gratitude, prove that there is no problem of flow of information from the Sudan, but the problem is actually with the Special Rapporteur himself who is no longer a proper channel for communicating with the Sudan.

51. Sixth: the deployed monitors would receive in most cases hearsay evidence about the situation of human rights in the Sudan and in addition to that, most of the people reaching them would be parties to the conflict with the Government and as such their credibility would be questionable, to say the least, since their priority would be to use the monitors as a toll for political pressure against the government.

52. We conclude this aspect by submitting that, in the light of the above mentioned reasons, there are no justifications whatsoever for the deployment of monitors, since the information regarding human rights in the Sudan has been smoothly flowing from the Sudan to all parts of the world through credible sources whose deep concern for human rights has caused them to take the trouble of visiting the Sudan at no cost to the budget of the UN. Surprisingly, the Special Rapporteur has never mentioned, in any part of his report, the credible reports prepared by any of those dignitaries and organizations which have visited the Sudan, nor has he mentioned the cooperation of the Sudan with other UN entities working in the field of human rights. Thus the Special Rapporteur owes this august body an explanation for such omission which we believe is deliberate and was intended to mislead all those who are concerned so as to agree to the deployment of monitors.

The Special Rapporteur has also declined to acknowledge developments in the Sudan other than those referred-to above

53. Since his last visit, tremendous achievements other than those referred-to above have been undertaken by the Government of the Sudan in different political, economic and social spheres, nevertheless, the Special Rapporteur has declined to acknowledge any of them despite the fact that they are directly connected with the issue of human rights and despite the fact that they have been brought to his attention by our response to his interim report. Not only

that, but also the Special Rapporteur has expressly declared that there is no progress to report about.

54. Such lack of credibility is substantiated by his failure to report the following developments:-

(1) Structural reform in the field of civil and political rights:-

55. First: since its assumption of power in 1989 the National Salvation Government (NSG) has recognized the importance of popular participation in the decision-making process by convening conferences for the discussion of all issues of public interest. In those conferences all sectors of the society were fairly represented and the conferences have started to be convened only few weeks after the assumption of power in 1989 and they have included the following:-

- The National Dialogue Conference on Peace Issues.
- The Conference on Economy.
- The Diplomatic Conference
- The Women Conference.
- The Justice and Law Reform Conference.
- The Displaced People Conference.
- The Education Conference.
- The Information Conference.
- The Youth and Sports Conference.
- The Social Development Conference.
- The Workers Trade Unions Conference.
- The Comprehensive National Strategy Conference.
- The Political System Conference.

In the light of the conclusions and recommendations of such conferences, the Revolutionary Command Council (RCC) has exercised its legislative and executive functions.

56. Second: to allow for a wider popular participation as a step towards direct elections which are the ultimate objective set out by the Political System Conference, a Transitional National Assembly (TNA) was established in 1991 to share with the RCC the legislative powers pending further steps in the transition to democracy.

57. Third: soon after the establishment of the TNA, the RCC dissolved itself and appointed a president of the republic pending elections which has already taken place.

58. Fourth: an important step towards transition to democracy in the Sudan has been reached by the completion of the first round of elections at the State

level. The final stage of elections, for the National Parliament and the President of the Republic, has already been completed and that would mark the completion of the transition to democracy as anticipated by the political system.

(2) Legislative Reforms in the field of civil and political rights

59. First: the National Security Law has been amended to subject all activities under that law to judicial review. In fact such review has been very serious and extensive to give proper legal guarantees to all persons detained. An example of such review is the death penalty passed by the judiciary against one of the law enforcement officers who was actually executed on 18 June 1995.

60. Second: the human rights principles and standards have been enshrined for the first time in the constitutional decrees of the State by elaborately providing for them in Constitutional Decree No. 7 and No. 13. Furthermore, all the other related principles such as the principle of legality, the rule of law, equality before the law, non-discrimination and the various freedoms have also been enshrined as guiding principles in the National Comprehensive Strategy pending their inclusion in the permanent constitution to be promulgated by the new parliament which has been recently elected.

61. Third: the freedom of expression has been guaranteed by the Press and Printed Materials Law, which has implemented the conclusions and recommendations of the Information Conference referred to above. Consequently, there are many daily news papers where opinions, different than that of the Government, are freely expressed.

62. Fourth: regarding the freedom of assembly, it is fully guaranteed by law and the legal provisions governing it are identical to those applied in western countries.

(3) Human Rights other than civil and political rights

63. Human Rights are far more extensive than civil and political rights, nevertheless, the Special Rapporteur has shown no interest in any rights other than the civil and political rights. Such attitude, on the part of the Special Rapporteur, is no wonder to any informed circle, since his political agenda and coordination with the self-exiled opposition has been exercised through his participation in many political gatherings arranged purposely to discredit the Government of the Sudan. Definitely, by confining his activities only to civil and political rights, the Special Rapporteur would be betraying his own mandate according to which he is expected to cover the whole spectrum of human rights.

64. To give a few examples of the omissions of the Special Rapporteur in this respect, we refer to the institution of Zakat in the Sudan. The impact of such institution on the economic and social human rights of the people in the Sudan is tremendous, and it suffices to mention that the financial resources of such institution have increased by more than 1000% since 1989 and in the last fiscal year more then 45% of such resources amounting to more than 6,000,000,000 SD were allocated to the poor and needy. No one in his full senses would imagine that the Special Rapporteur would miss commenting on such an unprecedented experience with all its positive impact on economic and social rights called for by the International Covenant on Economic, Social and Cultural Rights. To give more financial support to that trend the Zakat authorities in the Sudan has established recently the Savings and Social Development Bank intended to finance only the poor and needy without interest and without any obligation to repay in case of failure of the project.

65. Regarding the implementation of the right to housing called for by the same above-mentioned covenant, the Special Rapporteur has also missed commenting on it as though the right to housing is no human right. The steps taken in that connection by the Government of the Sudan include the distribution in Khartoum State alone, of more than 350'000 plots of land (200-600 square meters each) since 1989 providing housing for more than 2'000'000 persons.

66. As for the right to education, also not attended to by the Special Rapporteur, the Government policies have resulted in the increase of the admission rate in the universities by more than 500%. Also the Government is planning to make education compulsory at the primary level (first 8 years), and Khartoum State, where more than 15% of the Sudan population live, has already done so with immediate effect as of 1996. Also the Government has a comprehensive plan for the education of illiteracy within 10 years.

(4) Equitable division of wealth and power

67. To guarantee that all parts of the Sudan have their fair share of the wealth and power, the Government of the Sudan has opted for a federal system for the organization of the structure of the State. Consequently, the Sudan is now divided into twenty-six States, each of them having its own Governor, judiciary, legislature and cabinet Ministers. Seven out of the sixteen northern states are no longer receiving financial support from the Federal Government and as a result the ten southern States will receive more financial support from the Federal Government to compensate for the imbalance in development they are suffering as a result of the closed-district policies applied during the British colonial rule. Likewise, hundreds of ministerial and parliamentary posts in the ten southern States are all occupied by southerners, in addition to their wide participation in all federal institutions.

(5) Independence of the Judiciary

68. On the date of the assumption of power by the NSR many legal instruments were repealed, one of the few exceptions was the Judiciary Act of 1986. So the NSR has been keen to maintain the independence of the judiciary as a major safeguard for the respect of human rights. That course of action explains why the judiciary in the Sudan would not hesitate in passing a death penalty against a law enforcement officer who has exceeded his powers, as we have already explained, without fear of reprisal from the Government.

(6) The Sudan is free from political detainees and prisoners

69. All the above-mentioned developments were further boosted by the recent decision of the NSR whereby all political detainees were released and all political prisoners were pardoned. Furthermore, all mothers in prison, whether nursing or not, were also pardoned so that the children would not pay for an offense which they have not committed. In addition to that hundreds of ordinary prisoners were also pardoned because of humanitarian considerations e.g. old age, health, and otherwise. And we note that whenever the Special Rapporteur briefly refers to such positive measures, he would follow the reference by a reservation so as not to let it attract any appreciation.

(7) Review of all cases of civil servants made to retire for public interest since 1989

70. One of the accusations levelled against the NSR is the compulsory retirement of its political opponents from the civil service. In fact the motivation behind the policy of compulsory retirement was not political at all but the policy was adopted because of the numerous redundancies in many government institutions and because of the privatization process undertaken by the Government. Furthermore, different measures were taken, for example, the addition of five years to the service of the civil servants concerned, to absorb the negative consequences of the policy. Nevertheless, a presidential decree was passed recently mandating the review of all such cases within a specified period of time not exceeding one month (extended later for practical considerations) and as a result of such review many civil servants were reinstated in their previous posts.

71. Many circles have welcomed that measure but the Special Rapporteur, who has previously shown interest in the issue, is no longer interested to follow up the positive measures taken by the Government and has declined to make any reference to the issue.

(8) The German Federal Constitutional Court (GFCC) recognizes the non-existence of violations of human rights of political opponents in the Sudan.

72. On September 11th 1995, the German Federal Constitution Court (GFCC) made its judgment regarding the refusal of the German authorities to grant asylum to seven Sudanese nationals. The court has confirmed the decision of the German authorities on different grounds, one of them being the fact that the German authorities have verified the allegations of some Sudanese politicians that there are violations of their human rights by the Sudanese authorities, and have reached the conclusion that there is no official policy for such violations and that no organ of the State in the Sudan commits or condones such violations and consequently refused to grant them political asylum in Germany.

(9) The respect of the Sudan Government to Humanitarian Law has been commended by the U.N.

73. The efforts of the Government of the Sudan in the field of humanitarian assistance which have resulted in series of bilateral and multilateral agreements with international, regional and national agencies have made the UN General Assembly to adopt a resolution during the 48th session in recognition and appreciation of those efforts. Moreover, the reports of Mr. Vieri Traxler, the representative of the Secretary-General, who has visited the Sudan twice during 1993, have explained and appreciated the extensive efforts of the Government of the Sudan in that connection. On the other hand, had it not been for the cooperation extended by the Government of the Sudan, the humanitarian work appreciated by resolution 48/147 of the General Assembly would not have been possible.

74. Not only did the Special Rapporteur turn a blind eye to all those tremendous efforts, but he has also declined to report the interference of the rebel factions with the delivery of humanitarian relief, despite the magnitude of that interference which included the killings of relief workers, confiscation of relief shipments, and attack against land and water relief deliveries. And we note that the most recent of such interferences has taken place only few days ago when the rebel factions have intercepted a nile barge carrying relief supplies and looted its shipment.

75. The Special Rapporteur has never put many reported violations in their proper perspective and context, that is, a 10 years civil war in the South, the facts of that civil war to which most of the alleged violations are attributable and which the Special Rapporteur declined to elaborate upon are as follows:

(a) The latest round of that war has started in 1983 long before the present government of the Sudan assumed power, and also before the application of Shariah in the Sudan, whether by the Government of President Niemeri or the present government.

(b) The present government is and has always been keen to reach a peaceful solution to the conflict, and actually started by convening the National Dialogue Conference during September-October 1989 and welcoming and attending all peace initiatives up to the current IGADD initiative chaired by H.E. President Moi of Kenya and in this connection we note that the President of the Republic has visited Kenya recently to activate that initiative. Moreover, the Government of the Sudan has responded positively to the cease-fire declared recently by the rebel faction of Mr. Rek Machar. On the other hand, the rebel factions have always been blocking those initiatives and engaging in deadly fighting among themselves for "personal and ethnic motives", as rightly observed by Mr. Pronk, the Minister of Development and International Cooperation of the Netherlands, who visited the Sudan in 1993. Moreover, the Government of the Sudan has adopted a conciliatory policy which no one would have dreamt of, including the exemption of southern Sudan from Shariah Laws and the sharing of power and wealth by implementing a genuine federal system.

(c) Efforts to facilitate dialogue among the parties to the armed conflict, of which the Government of the Sudan has the biggest share, have been welcomed by resolution 48/147 adopted by the UN General Assembly on 20 December 1993.

II. REPORTED HUMAN RIGHTS VIOLATIONS

A. Violations by the Government of the Sudan

1. They are fair trials, not extra judicial killings or summary executions

76. The report holds the Government of the Sudan responsible for the on-going war in the south. It deliberately ignores the fact that the present government has inherited the war from the colonial rule and the successive national governments. One of the major deficiencies in the report is that it does not relate the alleged violations to the internal conflict within which they have taken place, as we have explained earlier. Consequently the report (paragraphs 8-11) labels the government military activities against the rebels as summary executions and extra-judicial killings. According to contemporary international law, dealing with issues of human rights in peace times is different from dealing with them at war times. The international community has recognized that reality and that is why it had made provisions for derogation therefrom in the relevant international human rights instruments.

77. Also the report does not include any detailed accounts of the allegations cited, nor does it offer any substantiation of such allegations.

78. It is really amazing that the Special Rapporteur has referred to "secret trials" in paragraph 8, since he himself has been invited to attend the open

visiting the Sudan, but he has turned down the invitation without giving any reasons.

79. If it is true that the Government takes reprisals against civilians as alleged in paragraph 10, how can the Special Rapporteur explain the established fact that thousands of civilians are fleeing the war in the south to northern towns and peace villages established by the Government in the south and in the Nuba Mountains? More and above, how can he explain the fact that hundreds of rebel military leaders and soldiers are deserting the rebel army and coming to the Government-controlled areas?

80. The information reported in paragraph 13 that at least five persons were reported to have been killed by security forces is not true, and the Government has given full account of the student demonstrations which took place in September 1995, explaining that, except for the three students who were accused of sabotage, all of those arrested have been released.

81. The aerial bombardments are deliberate but they are not indiscriminate since they are geared towards military targets.

2. The enforced and involuntary disappearances

82. The Working Group on Enforced and Involuntary Disappearances, a UN organ specifically mandated with the above-mentioned topic, regularly publishes accurate statistics of the cases of enforced and involuntary disappearances all over the world. In its report of 1994 No. (E/CN.4/1994/26) the Working Group noted that in some countries the cases of disappearances exceed 10'000 cases and that only four cases were reported about the Sudan, two of which have already been clarified to the satisfaction of the Working Group. Nevertheless, the Special Rapporteur has intentionally declined to refer to such most relevant and authentic UN report, preferring to use a very loose language that "it is widely believed that thousands of persons have disappeared in the past few years". And in this connection we have already explained how the Government of the Sudan has responded positively to the letter of the Working Group dated 11 December 1995, but is seems that the Special Rapporteur is not even aware of such response.

3. Torture and other cruel, inhuman or degrading treatment are not existing in the Sudan

83. The Special Rapporteur has been accustomed to making frequent references to the so-called "Ghost Houses" to distort the image of the Government. He has alleged previously that he had received floor plans, and that the information he received gives the exact location of one of them. We have responded to those remarks by explaining to him that such information could have been clarified by requesting the authorities to visit that particular

location and in case of a negative response, then he would be fully justified to conclude that such houses do exist. Our response was not taken into consideration and the Special Rapporteur is now using the same old technique once again by referring in paragraph 17 to "Ghost-Houses" without making any verification of the allegation, but we don't believe that repetition would give more weight to such unfounded allegations.

84. Furthermore, it is worth noting that the government authorities have succeeded during 1995 to interview Mr. Siri A. Zarouge who has publicly admitted having drawn and published fictious sketches of Ghost-Houses while he was a member of the self-exiled opposition and the Sudan Human Rights Organizations in London, so as to make the allegation of Ghost-Houses look real, thereby distorting the image of the Government.

85. Recently, in March 1996, a French journalist who has been invited to the Sudan to observe the elections, has identified one such alleged ghost-house at the superb of Khartoum city and has requested the Director of Public Prosecution (DPP) to accompany her in visiting such house. The search of the house conducted in her presence proved that the house is nothing more than an ordinary privately owned house. Undoubtedly, such incident coupled with the interview referred to in paragraph 84 above proves that ghost-houses are nothing more than a fiction intended to distort the image of the Government of the Sudan.

86. The methods of torture enumerated in paragraphs 17-18 are frequently cited against most of the members of the UN and whether they are applied in the Sudan or not does not merit the concern of the Special Rapporteur. It is sufficient that his sources have reported them to him and whatever comes from these sources is incorporated in the report as conclusive evidence. In this connection it is most relevant to mention that when Mr. Sadig Almahdi, the ex-Prime Minister, was detained in 1994, many allegations have been levelled accusing the Government of torturing him, but Mr. Almahdi himself has appeared on the TV refuting the allegations of torture. Likewise, we don't believe that the allegations of torture contained in paragraphs 17-19 would have better credibility.

87. The Government of the Sudan, however, takes exception to his reference in paragraphs 17-19 to "rape" by members of the security agencies. Such practices may prevail in some countries which seem not to be accountable for their deeds for obvious political considerations, but it is abhorrent to the Sudanese code of conduct, and the fact that the Special Rapporteur chose to attribute it to the authorities in the Sudan only shows how much he lacks proper understanding of the country and its set of values.

88. On the other hand, if it is true that many political detainees in the Sudan have died inside detention centres as alleged by the fictious source of the

Special Rapporteur (S.T. aged 42), the Special Rapporteur would have been able to give at least the name of one such detainee.

4 Arbitrary arrest and detention are not existing in the Sudan, and due process of Law is prevailing

89. The process of arrest, detention an trial is not carried out arbitrarily in the Sudan, but subject to legal procedures provided for in the criminal procedure and national security laws, and consequently any action contravening these procedures is considered as an offense. The Special Rapporteur must have been fully aware of these laws since he was given copies of them during his visit to the Sudan. In addition he has also received a full reply regarding all allegations of arbitrary arrest, detention and arbitrary trials, but none of the contents of the reply was reflected in the report.

90. Despite of the foregoing, the Special Rapporteur has reported, in paragraphs 21-27, about hundreds of arbitrary arrests and detentions in contravention with his mandate, which obliges him to seek credible and reliable information. We affirm in this connection that the Government respects the right of the individual not to be arrested, detained or tried arbitrarily, not only because it is a mandate of international law, but, more importantly, because it is an Islamic ordain and must be fully adhered to.

91. The information contained in paragraph 28 to the effect that retired Brigadier Al-Rayah is still in detention is not true since Mr. Al-Rayah has already been pardoned and this shows how unreliable is the verification of the Special Rapporteur.

92. It is an established fact that the law governing detention in the Sudan is in full compliance with the principles of International law enshrined in Articles (5) and (9) of the Universal Declaration of Human Rights, which provide that no one shall be subjected to arbitrary detention, and that those principles have been given the force of law. The Sudan National Security Act of 1990, as amended, has elaborated in that regard in a more detailed manner, including the following:-

(a) The National Security Council can only order detention for the protection of national security and for a comparably short period of time.

(b) The detainee has the right to be informed of the reasons of his detention.

(c) The detainee shall not be subjected to any physical harm or cruel treatment.

(d) The detainee has the right to complain to the competent Magistrate about non-compliance with the safeguards provided for in the law.

(e) The National Security Council may make an order extending the detention for three months if it deems that the national security so requires, but such order for the extension of detention is subject to judicial review.

(f) Any person released under judicial review shall not be re-detained except after the expiry of at least one month, or with the prior permission of the Magistrate concerned.

(g) Any person acquitted by any court under the National Security Act shall not be detained for being suspected of having committed an offense against the security of the State except after the expiry of at least one month as of the date of acquittal or with the prior permission of the Magistrate.

93. In addition to the above tight legal regime, which makes detention subject to strict judicial supervision, the Government of the Sudan has taken the following further measures:

(a) Provisions were introduced for the first time in the Sudan Penal Code 1991, incriminating all acts of torture or ill treatment of detainees (sections 89, 90 & 115).

(b) A legal Counsel from the Attorney-General's Chamber was designated to make unscheduled visits to detention centres in order to ensure that detainees are treated according to law and to take legal proceedings against any law enforcement officer abusing or exceeding his powers.

(c) Many criminal complaints were being filed against security officers suspected of torture or ill-treatment of detainees, and one of them has resulted in a death penalty being executed against a Law enforcement officer on June 1995 as we have already mentioned.

(d) The authorities concerned have started to organize seminars for security officers where eminent lawyers and opinion leaders lecture them on relevant international conventions, religious teachings and national laws prohibiting torture and ill-treatment of detainees.

94. Having said that much about the theoretical aspect of the legal regime governing detention in the Sudan, it remains to be said that the objective verification of the allegations made against the Government of the Sudan

previously undertaken by the Special Rapporteur while visiting the Sudan has convinced him beyond any reasonable doubt that most of those allegations were unfounded, as is clear from the following:-

(a) The Special Rapporteur, who was then an Independent Expert (IE), mentioned in paragraph 27 of his report (E/CN.4/1993/R.4) that the Sudan Government has introduced to him Mr. Louis Gore whom Amnesty International and other sources have alleged to be arbitrarily detained and tortured. In that paragraph the IE explained the facts of the allegations as follows:
"Louis Gore was introduced to the IE personally. He told the IE he had been detained for three days and that he had not been tortured - his general physical condition and behavior at first glance appeared as normal." Therefore we justifiably submit that most of the allegations made against the Sudan and reported to the Special Rapporteur were similar to the allegations made with regard to Louis Gore, but the authorities were not always in a position to refute the allegations either because of the enormity of the allegations or because of the vagueness of the allegations or because of other practical considerations.

(b) After having visited the Sudan, the Special Rapporteur has described Kober Prison as follows: "In Kober Prison there was a number of approx. 15 persons who had participated in the 1990 plot, whose sentence had been reduced as a result of successive amnesties... the condition of these persons ....was very good, since their relatives supplied them regularly with food, books, newspaper, radio and one TV set. The IE is inclined to conclude that human rights are respected in the Kober Prison. This opinion is shared by independent sources also." It is hard to believe that a Government so keen to respect the Human rights of persons participating in a plot against that Government, as testified to by the IE, would violate the human rights of other detainees committing less serious political offenses as reported in the allegations made against the Sudan in paragraphs 21-27 of the report, but it seems that the Special Rapporteur has a weak memory and has forgotten his own previous reporting by resorting to a hearsay evidence as in paragraph 23, quote" It was reported that most of the detainees were subjected to ill-treatment in detention".

(c) Amnesty International (AI) has, in its document (AI Index: AFR 54/33/92), alleged that twenty persons were detained and that there is a serious concern that they were at risk of torture. At that time AI did not bother to contact the government of the Sudan for clarification before publishing those allegations. As a consequence, those allegations have found their way to the report of the IE despite the fact that they were groundless since the procedures taken were only normal in the circumstances and the persons concerned were available to testify to the

falsity of the allegations of torture. The Special Rapporteur is now repeating the same experience by reiterating hearsay evidence. Following a technique to water down the release of all political detainees on 23 August 1995, the Special Rapporteur has referred to many unfounded allegations. For instance in paragraph 24 he pointed out that "three well-known lawyers were also arrested". Actually the arrest was for a very short period of time and all of them are free now, but he would not give a full account of the facts by explaining that the arrest was made because of serious accusations and has not lasted long.

95. The abovementioned remarks prove that the noble issue of human rights has been used and manipulated for political and ulterior purposes, and if we allow that trend to continue, it would discourage any genuine endeavour to protect or promote human rights.

96. It is really amazing that in paragraph 29 the Special Rapporteur has blamed the Sudanese authorities for having mentioned the names of the 58 political detainees freed without any more identification, while, ironically, he himself and in the same paragraph has referred to 28 persons being still in detention without even giving their names.

5. Provisions of penal legislation are consistent with international norms

97. Regarding this subject the Special Rapporteur has claimed in paragraph 32 that the Sudan in its extensive written replies did not forward, during the past two years, one single argument supporting the consistency of its State legislation (Islamic) with international human rights norms and standards. In response to this claim we refer to the recent document (E/CN.4/1995/174) dated 29 March 1995 where the Sudan has forwarded its argument explaining that those who claim the inconsistency of Islamic Penal Laws with international human rights instruments, actually rely on Article 7 of the ICCPR which provides, inter alia, that no one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment, making their own unwarranted interpretation that the phrase "cruel, inhuman and degrading punishment" includes the penalties provided for in the Islamic Penal legislations. And explaining further that such interpretations have no legal weight whatsoever since the ICCPR itself excludes whatever is provided for in the national legislations. Moreover, we have explained that the allegation is in itself a flagrant violation of the international human rights Law, including the ICCPR and the Universal Declaration, which provide that everyone shall have the right to freedom of religion, which include the freedom to manifest the religion in different forms and we believe that manifestation includes the application of Penal legislations.

98. For those reasons combined we urge the Commission to ask the Special Rapporteur to reconsider his remarks regarding State legislations in the Sudan which are Islamic legislations.

99. In paragraph 3 above we have already explained how the Government of the Sudan has complied promptly with paragraph 2 of the resolution on the situation of human rights in the Sudan adopted by the Fiftieth session of the UN General Assembly by establishing a committee to investigate the cases of slavery, servitude, slave trade, forced labour and similar practices as contemplated by that resolution. Thus it is unfair on the part of the Special Rapporteur to decline to refer to the positive response of the Government of the Sudan and once again repeat the same old allegations contained in paragraphs 27-33 of his interim report. As for the substance of those paragraphs we respond by the following:-

6. Slavery, servitude, slave trade, forced labour and similar institutions and practices

100. Even after having visited the Sudan three times the Special Rapporteur was not able to substantiate the abovementioned allegations which are now under investigation, and that explains why, in his report of February 1994, he has used the word "seem" in paragraph 65 when describing such tribal practices: quote: "they seem to fall under Article 1 of the Slavery Convention (1926)". That uncertainity in the words of the Special Rapporteur could not be compared with the strong, clear and solid phrasing of the Sudanese Penal Code of 1991 where the crimes of abduction (Art. 161), Kidnapping (Art. 162), forced labour (Art. 163), unlawful confinement (Art. 164) and unlawful detention (Art. 165) are punishable with imprisonment for periods not exceeding 7 years, 10 years, one year, 3 months and one year, respectively.

101. So, we have every right to submit that it is not appropriate for the Special Rapporteur to raise the allegations contained in paragraphs 33-39 of his recent report, including the finding that there is a tacit political approval to the practice of slavery, which he has previously failed to substantiate even after having visited the Sudan three times, as we have pointed out above. Not only that but also the Special Rapporteur has failed to establish, through the allegations and the hearsay evidence he has compiled in his report, that the right of ownership contemplated by the different international instruments on the subject has ever been exercised with the knowledge of the authorities in the Sudan over any individual in any part of the country. Moreover, Article 7 of the Supplementary Convention on the Abolition of Slavery defines slave trade "as acts involved in the capture, acquisition, or disposal of a person with intent to reduce him to slavery..." i.e. that the element of intention is decisive. In the Sudanese tribal fights, which normally result in captives and prisoners of war on both sides of the conflict, there is no such intention, since the fights would only break out to get more pasture and water for the cattle and not to collect

slaves as was the case with the white man coming to Africa decades ago. So no fair-minded observer would agree with the Special Rapporteur that the Convention is applicable to the case of the Sudan. The position of the Sudan in this connection is further supported by the fact that Islam, being the religion of the majority of the Sudanese people, shunned and prohibited all forms and practices of slavery hundreds of years prior to the adoption of the Slavery Convention of 1926.

102. Under this Section of his report the Special Rapporteur has also intentionally implicated the para-military forces, including the Popular Defense Forces, in the slavery practices which he has described. As we have already pointed out in our earlier responses, we are confident that the Special Rapporteur was misadvised and that the reports given to him in relation to these forces were intended to mislead him. In fact these forces are carrying on a noble mission of protecting the relief routes and fighting banditry and outlaws who regularly interfere with the relief operations and those forces should have been commended by the Special Rapporteur rather than being wrongfully projected in such discrete manner manifesting the bias and political motivation of the Special Rapporteur.

7. Freedom of thought, conscience and religion guaranteed

103. Even if we accept the submission of the Special Rapporteur that the Government of the Sudan was so irrational as to think that withholding relief from the people would make the government and the values it espouses more attractive to them, the realities would not make such course of action possible since the U.N. records show that the control over relief supplies is mostly in the hands of NGOs, mostly Christian and western. If the Special Rapporteur has assumed that changing religion is the only way for getting relief, the assumption is only true of the Christian Missionary Societies which have, during the British colonial rule in the Sudan, monopolized education and many other services and would only offer them to those who accepted baptism. Many western church-affiliated NGOs are trying to repeat what had been done by their forerunners by using similar tactics. Furthermore, and according to Quranic teachings there is no compulsion in religion, so the reference in paragraphs 42-43 to enforced Islamization and the killing of those who refuse to convert to Islam are against the fundamental principles enshrined in the Quran. On the other hand, the educational institutions provided by Islamic NGOs are private and very expensive. The displaced would not be able to gain access to these much sought-after institutions. Within its means, the Government has been trying to meet the needs of the minorities. For example, teaching of Christianity in Government schools in the north has, for the first time, been made available by the current government so as to give equal rights to the Christian minority. In addition, the religious tolerance of the Government has resulted in the availability of a large number of very prestigious church-run schools in Khartoum and other towns. There is thus no

truth whatsoever in the allegations leveled by the Special Rapporteur in this regard.

104. In this connection we have referred in our previous responses to the fact that there are reports of "alarming" number of conversions to Christianity in both government-controlled areas and in the rebel-held areas, in addition to proliferation of churches to the extent that Khartoum State has got more than 500 new churches by February 1993. Nevertheless, the Special Rapporteur is still repeating the outdated allegation of enforced Islamization.

105. Moreover, SPLA in all the areas it has captured has always started its activities by cutting the throats of the imam of the mosque and the muezzin, and most Mosques in SPLA-held territory had been either destroyed or turned into ammunition stores or liquor houses. By contrast, there has never been any destruction of places of worship by the government or any of the forces under its control. And it could never do that, even if only because many of the government soldiers are Christians. Thus, the Special Rapporteur is in fact blindfold to lack of freedom of worship where it exists and sees persecution where none exists!

106. As they say, it is not always easy to tell lies, so we notice in paragraph 42 that the Special Rapporteur has referred to the allegation of "enforced Islamization", while in paragraph 41 he has the following to report, quote: "Reports on the destruction of mosques in the Nuba mountains reach the Special Rapporteur in 1995." We submit that it is impossible to reconcile such contradictory statements even if it is true that there is an officially expressed claim that the government knows Islam better than the ordinary people, as alleged by the Special Rapporteur. However, we are used to such unfounded allegations, and up to this moment we are waiting for him to accept our challenge for substantiating the similar allegations contained in his report of February 1994 that the Government has confiscated mosques run by Ansar al-Sunna or the Khatmiyya, even if only by naming one such mosque. And once again we challenge him to name only one of the mosques which he has alleged to be destroyed by the Government, and all members of this august body are invited to be our witnesses for such challenge, which he would never be able to meet.

107. As for the allegation contained in paragraph 43 that there are summary executions of 12 civilians in Lobonok on 3 May 1995, it suffices to point out that the different organizations and dignitaries who have visited the area after that date have never mentioned or referred to such allegations, and we don't believe that the Special Rapporteur is in a position to know better since even if he has actually met an eye-witness, those who have visited the area recently must have met dozens of eye-witnesses but have never made any similar allegations. And since the Special Rapporteur has not accused those circles of

covering up for the Government, the only remaining explanation is that the allegations are unfounded.

8. Freedom of expression, association and peaceful assembly guaranteed

108. It is symptomatic of the Special Rapporteur's utter lack of respect for his mandate of seeking "reliable information" that he consistently fails to find out what is actually happening in the fields where he is making instant judgments. For example, he is completely oblivious to the Press and Printed materials law giving private companies the right to publish newspapers and other publications. He is also oblivious to the fact that, as of 28 January 1994, the government has relinquished all control over the papers and their publishing houses, allowing them to compete as private entities with other privately owned publications. Already three new news-papers have emerged to compete with the privatized companies. Even in the field of the Radio and Television, the government's networks are poorly funded compared to powerful international broadcasting agencies of both radio and television which are freely and widely received in the Sudan. It is in fact the government which should complain about lack of access and ability to make its views and case heard, since the powerful international media (and the Special Rapporteur) are constantly giving space and credence to reports of its opponent, while its voice goes unheard.

109. As for the political parties referred to in paragraph 46 of the report we once again explain that political association is regulated by law and that we believe that as long as the regulations allow free expression and full participation of all citizens without discrimination, certain types of associations and organizations, like political parties in the Sudan which were based on religious and family affiliations and which have caused universally acknowledged harm, could be prohibited. It is only common sense to try to progress beyond situations that have led to repeated stalemates in the political life and harmed the progress of the country, as well as feeding strife and disharmony. For the same reason not even the opposition is calling for a return to the discredited party system. The opposition's programme calls for a five-year interim period in which no parties would be allowed to take part in the political life. Therefore the present government is only implementing policies which have unanimous support, and its programme differs from that espoused by the opposition in that it has more popular support. In the end, the people will decide on how they want to run their country by electing the representatives they trust, and such elections have already taken place as we have already explained. The administrative regulations called for by the Press and Printed Materials Law regarding licensing and examinations for proving the ability of journalists, are in no way restrictions on the freedom of speech and press as claimed by the Special Rapporteur in paragraph 49. All professions such as law, medicine, engineering...etc. have their own administrative regulations intended for the improvement of the profession.

Furthermore, such practices are not unique to the Sudan, but are recognized almost everywhere else.

110. As for the licensing of fax machines referred to in paragraph 45, the mater is even more straight-forward since using a fax machine would need the availability of a telephone line and to get such service one would need to consult the Government agency concerned which is the Ministry of Telecommunication but there are no other restrictions whatsoever.

111. The reference in paragraph 46 that the Criminal Code of 1991 declares as an unlawful assembly a gathering of more than five persons without the prior approval of the competent state authorities was intended to discredit the Government of the Sudan despite the explanation given to him previously verbally and in writing. We strongly believe that the explanations given were convincing, but the Special Rapporteur, exposing his credibility time and again, has declined to report the explanations given, which were as follows:-

(a) The provision regarding unlawful assembly was not introduced by the 1991 Criminal Code but was originally introduced by the British Colonial rule in the Sudan.

(b) There is a similar provision even in the Penal Codes of the well established democracies of today.

9 The Rights of the Child

General aspects

112. In paragraph 48, the Special Rapporteur has also once again exposed his credibility by pointing out that he, quote: "has not received any communication from the Government of the Sudan....in relation to the most serious abuses and violations, namely those committed against children living or working in the street and the camps set up for children belonging to these categories..." Our response to such unwarranted claim is as follows:-

113. The Special Rapporteur is in no position at all to report about the rights of the child in the Sudan for the obvious reasons already given that he (while in Khartoum) has turned down an official invitation to attend a seminar on the rights of the child held in Khartoum during 18-20 December 1993 under the auspices of the Sudanese National Council for Child Welfare and the UNICEF. He turned down the invitation as he decided to leave Khartoum on 17 December 1993 one day before the opening of the seminar in order to meet his Christmas plans. However, it seems that the Special Rapporteur has forgotten that incident, since in paragraph 54 of his report he has commended a similar seminar by UNICEF. Such discriminatory attitude proves the partiality of the Special Rapporteur.

114. However, that was a clear example as to how the Sudan opens the door wide open for the Special Rapporteur to have first-hand information about a very important issue (Children) in the presence of the competent U.N. agency (UNICEF), but he refuses to avail himself of that opportunity, which would have precluded him from reporting at length the unfounded allegations contained in paragraphs 47-63 of his report.

115. As was the case with regard to the different aspects of the mandate, the Government of the Sudan has been keen to give the Special Rapporteur a true picture of the rights of the child in the Sudan, but as evidenced by that incident the Special Rapporteur has been turning a blind eye and a deaf ear. Nevertheless, the efforts of the Government have continued, and that is why the Government has decided, immediately after the conclusion of the seminar, to send him by express courier the final report and the recommendations of the seminar at his home address where he has been enjoying his Christmas holidays and using his imagination to report about the rights of the child in the Sudan. As expected he did not report that incident or acknowledge receipt of the documents sent to him, but instead he is accusing the Government of not responding.

116. As for the substance of the issue of the rights of the child in the Sudan, our response is as follows:-

First: On the theoretical level

The representative of UNICEF in Khartoum, Mr. Tarig Farougi, mentioned in his statement before the abovementioned seminar the following:-

(a) With regard to children in the Sudan we notice, during the four past years, that there are many clear milestones.

(b) The Sudan is one of the promoters of the Convention on the Rights of the Child.

(c) The Sudan is the second Arab Country to ratify that convention.

(d) The Sudan has ratified the Convention without any reservations and was in full compliance with recent call for minimization of reservations as reflected in Vienna Declaration and Programme of Action.

In addition to the statement of the representative of UNICEF, and on the theoretical level we would like also to make the following observations:-

(a) Not only that the rights of the child are now part of the Laws of the Sudan, but actually the welfare of children has been made a constitutional obligation on the Government by Article 7 of the

Constitutional Decree No. 7 promulgated on 16 October 1993. We believe that no country has gone that far, and such pioneership should have been commended by the Special Rapporteur.

(b) The seminar referred to above took note with appreciation of the Government initiative to review and revise all legislation pertaining to children, since the Minister of Justice has established a committee for that purpose.

Second: On the practical level

The representative of the UNICEF in the seminar has also addressed the practical aspects by stating the following:-

(a) In 1992 the Sudan has launched a national plan for the protection and welfare of children and consequently became one of the only four African countries who have done so.

(b) There are many achievements which could be mentioned in this context, including the Wad Medani Workshop on the rights of the child, comprehensive vaccination, and the commencement and successful continuation of Operation Life Line.

What else would a reasonable man require of the Sudan on the practical level after having launched that national plan and achieved those objectives. Actually, there are many other achievements but we are keen to confine our references to those acknowledged by the representative of the competent U.N. agency so as to show how biased was the reporting of the Special Rapporteur.

Lastly, it is worth mentioning that the Government has made itself committed to the recommendations of that seminar.

Children living or working in the street

117. From the international media coverage almost everyone is familiar with the multiple risks and dangers confronting street children, including addiction, pornography, prostitution, and sale of organs.

118. The strategy of the Sudan Government in this connection has been to adopt effective, preventive, and corrective measures so as to prevent and if need be eradicate those vices altogether. That strategy has and is working very well. The Special Rapporteur himself, with all his bias, has not reported the existence of any of those vices, but as is expected no recognition or appreciation was expressed by the Special Rapporteur for the efforts of the Government.

119. However, the Special Rapporteur did not rest contented with his omission to recognize the efforts of the Government, but has made utmost efforts to build a case against the Sudan by alleging that the Government is gathering the children in certain camps against their will. Previously the allegation framed by the Special Rapporteur was that such action should only be done by a court-order, and we have responded by explaining that the allegation does not hold water because it contradicts Article 3 of the Convention on the Rights of the Child which provides, inter alia: "In all actions concerning children, whether undertaken by public or private authorities or legislative bodies, the best interests of the child shall be primary consideration." It is clear from the foregoing Article that welfare actions concerning children do not in all cases require court orders. The public or private welfare institutions and administrative authorities can take actions concerning children under only one condition, that such actions be in the "best interest" of the child. And as is clear we have raised the issue of the "best interest" of the child long before the Special Rapporteur, who is raising it in paragraph 51.

120. The Government was actually doing nothing more than what is warranted by the abovementioned Article, and its national plan in that regard has been commended by the representative of UNICEF as making the Sudan one of the Leading four African countries with such national plans. On the other hand, the street children are really competing for the welfare programmes of the government which are confined to limited numbers because of budgetary constraints, so how could any body possibly agree that those children are detained against their will, or dramatically depict such practice as he did in paragraph 56, when legitimately exercised by Sinar State. Also the number he quoted (130 children) proves that such welfare programmes are very limited because of the budgetary constraints and only the lucky ones would benefit from them.

121. During his second visit to the Sudan the Special Rapporteur met privately with a child who has been kept for three years in those camps. It should be noticed that the child did not testify that he was detained, or kept against his will or that he has been subjected to any religious or political indoctrination. Nevertheless, when the Special Rapporteur started raising queries about those camps during his second visit, he was invited for the second time to visit them, but surprisingly he refused to go. In his report f February 1994, he tried to make excuses for his refusal to visit those camps by saying that the time was late in the evening, but he did not tell us why he did not request to visit them after he had canceled his trip to Juba and Malakal, since that cancellation gave him two more days in Khartoum. It seems he preferred, as usual, to get his information from indoor consultations with biased sources rather than go himself and collect first-hand information. Accordingly

the Special Rapporteur is in no position to report anything about those camps and his wrong reading to Article 3 of the Convention is unexcusable.

122. We conclude this aspect of the issue with the following additional observations that the Special Rapporteur is contradicting his own previous reporting on the same subject since he has already, in paragraph 92 of his February 1994 report, expressed satisfaction with the living conditions of the children in those camps and evidenced the variety of subjects taught to them, including mathematics.

Abduction of Children

123. The issue of abduction of children referred to in paragraphs 58-59 is not true. It was either created by the Special Rapporteur or by the sources who provided him with the information. But if he has provided specific names of persons engaged in such illegal practices the Government would have not hesitated in taking immediate legal action against the persons involved, especially that the crime of abduction is punishable under the Sudanese Penal Code with imprisonment for a period not exceeding 10 years or with fine or with both penalties. Actually, the Special Rapporteur was reporting nothing new other than reiterating his old stories, except the funny reason given for abduction in paragraph 59, "they walk naked and are non-believers.

The status of minors

124. The bias of the Special Rapporteur has reached intolerable extent as is clear from paragraph 60 of his report where he has cited Article 27(2) of the Criminal Act of 1991 out of context, making it possible to pass a death sentence on a minor as young as seven. That information is not true since Article 8 of the same Act provides that there is no criminal responsibility for any person who has not reached puberty, and since Article 9 provides that the minor who has not reached puberty shall not be considered as having committed any crime and could only be subjected to reformatory measures such as reprimand or being handed over to his family after having signed an undertaking, so how can the Special Rapporteur allege that it is possible to pass a death sentence on a minor as young as 7?

Sale or traffic of children

125. The reference by the Special Rapporteur in paragraph 61 that he is not aware of any action taken by the Government of the Sudan to investigate cases brought to its attention is not true, to say the least, since no cases have ever been brought to the attention of the Government by the Special Rapporteur. To substantiate such submission we refer to our response to his February 1994 report addressing the same point, quote "instead of providing credible and reliable information as required under his mandate, so that the Government can

move immediately and take legal action against all persons involved in such notorious practices, the Special Rapporteur is using a very weak language ...traffic including sale seem to be...well founded...what else could he verify if he fails to substantiate and prove such a purported mass abduction which could not be covered up if it really exists." So since last year the Government has been requesting the Special Rapporteur to give the information that would enable the Government to make the investigations, but no information was given by the Special Rapporteur and once again he is blaming the Government for not investigating cases which have never been brought to its attention.

The right of the child to identity and education

126. When making allegations concerning changing of names in paragraph 62, the Special Rapporteur did not even bother to mention the source of his information, let alone to comment on the credibility or reliability of the source. Accordingly we submit that those allegations are not true, and should not have been reported, because to report any allegation, let alone such a serious allegation, without having any credible evidence would bear negatively on the Government.

Children in the conflict zone

127. In this connection we reiterate our support to the statement contained in paragraph 101 of his February 1994 report that, quote "children have been used as soldiers in the conflict by all factions of the SPLA can also be confirmed by the Special Rapporteur." And we urge the Special Rapporteur to support the efforts of the Government in bringing those children back to their families and condemning the SPLA for such immoral and illegal practices.

128. In paragraph 56 of his interim report of 16 October 1995 the Special Rapporteur has promised to discuss further details about the rights of the child in his final report to be submitted to the Commission. Now rather than living up to his promise, the Special Rapporteur in paragraph 63 concluded, in the light of the letter of the Permanent Mission of the Republic of the Sudan dated 21 November 1995, that there is no obstacle to opening up all camps for children in the north so that members of national and international humanitarian and human rights NGOs and independent observers may visit and inspect the camps. We have no objection to his conclusion otherwise we would not have previously invited him to visit those camps.

10. The rights of women

129. Women in the Sudan are enjoying equal rights with men, including the right to equal pay before that right was even recognized in many western countries.

130. As for the testimony of women in certain cases we would like the Special Rapporteur to realize that it is part of the ordain of God, and as such comes under freedom of religion and its manifestation guaranteed by various human rights covenants and for those reasons combined we submit that the comments of the Special Rapporteur in this regard are in themselves violations of the freedom of religion, which is a basic human right.

131 Furthermore, the Special Rapporteur himself has previously, in paragraph 104 of his February 1994 report, recognized the vast majority of rights enjoyed by women in the Sudan, quote "As far as the rights of women are concerned, the Special Rapporteur notes that although the Sudan is not a party to the Convention on the Political Rights of Women (1952), the exclusion of women from political activities, including the right to elect and the right to be elected, to hold public office and to exercise public functions, was not reported." That is no wonder since the Government of the Sudan has always been claiming that it respects human rights even if it is not obliged to do so by international law.

132. As for the conclusion made by the Special Rapporteur in paragraph 64 that the differentiation between men and women in matters relating to civil capacity infringes one of the basic principles of the UN Charter: the principle of equality of men and women, and that the Special Rapporteur is not aware of any preparatory act which would indicate that the Sudan is willing to accede to the 1979 Convention on the Elimination of All Forms of Discrimination against Women, we avail ourselves of this opportunity to explain that the delay of the Sudan's accession to the abovementioned convention is caused by the misunderstanding propagated by the Special Rapporteur himself that Shariah laws discriminate against women in many civil matters in violation of the right of equality of men and women. One aspect of such discrimination which is very limited in scope has been explained above as being mandated by the freedom of religion and its manifestation in the form of legislation or otherwise, which is in itself a basic human right. The other aspects of the alleged discrimination are easier to explain since they are positive discrimination, giving more advantages to women, and as such are most welcomed by the relevant conventions , for example, making the male partners in the family responsible for all the financial obligations.

133. On the other hand the Special Rapporteur has welcomed, in Paragraph 65, the release in August 1995 of all female detainees who have children, but as mentioned earlier he has watered down that achievement despite the fact that the request made by him was not to release them but only to improve their living conditions by calling upon the Government of the Sudan to eliminate the underlying causes that led to their detention, in particular the criminalization of traditional practices of southerners, namely, brewing and sale of alcohol. On the other hand such call proves beyond any doubt the selective approach of the Special Rapporteur which is targeting Islam, since he himself has previously, in

paragraph 108 of his February 1994 report, called upon the Government of the Sudan to criminalize the traditional practice of female circumcision. Actually the Laws of the Sudan don't forbid non-Muslims from drinking alcohol but the sale of traditional alcohol was forbidden even before the application of the Shariah Laws because it is dangerous for the physical and moral health of the society, nevertheless, the ulterior motives of the Special Rapporteur have made him call upon the Government of the Sudan not to criminalize such practices, which were offenses even under the Penal Code applied long ago in the Sudan by the British colonial rule.

134. The allegations contained in paragraph 66 that there is practically unlimited powers granted to members of the Popular Police Force and the Peoples Committees in the preservation of the moral health is not true and has no factual base whatsoever, and the citation of Article 5, chapter 1, of the Constitutional Decree No. 7 would not give the allegations any weight since it is most irrelevant and in fact the Special Rapporteur has been raising that allegation long before that Decree was promulgated.

11. Freedom of movement and residence, including the right to leave or return to the country

135. As is the case with other matters covered in his report, the Special Rapporteur has tried to give a negative impression about the freedom of movement and residence, including the right to leave or return to the Sudan and the possession of documents concerning personal identity. In response to that we point to the fact that many leaders of the opposition groups living today outside the Sudan have left the country through Khartoum airport and with the approval of the authorities. Those leaders include Sayed Mohamed Osman Al Marghani and Sayed Omer Nur Al Dayem, with whom the Special Rapporteur himself has attended many forums convened by the opposition.

136. Actually freedom of movement and residence are constitutionally guaranteed in the Sudan by Constitutional Decree No. 7 and there are no restrictions over such rights, except those recognized in all other jurisdictions.

137. The allegation contained in paragraph 68 that certain areas, in particular, the Nuba Mountains area, are a forbidden zone for any human rights monitoring or relied activity is not true, since in paragraph 24 of his interim report submitted to the 48th session of the General Assembly the Special Rapporteur has admitted that quote, "No objectionss were raised by the Government of the Sudan against a visit...to the Nuba Mountains". And since as recently as a few weeks ago the government of the Sudan has invited not less than 40 heads of missions and diplomats, including the United States and the United Kingdom Ambassadors, to visit the Nuba Mountains. The Sudan, therefore, has not experienced any restriction of movement except during the colonial rule when the south and the Nuba Mountains were considered closed

areas for any Muslim from northern Sudan. The denial of flying clearances is a sovereign right but has been exercised in the most responsible manner and with unprecedented cooperation with persons concerned including the Special Rapporteur himself, to whom flying clearances to Juba and Kajo Kaji has been issued but he refused to make use of them without giving any reasons as we have already noted.

138. The registration for national service is a legitimate practice even in the countries which have hinted to the Special Rapporteur to make these allegations, and one would question the intention behind raising this matter in the context of human rights.

139. The repetition by the Special Rapporteur of the unfounded and unjustified allegations of the Eritrean regime of EPLF regarding the harassment of the Eritrean refugees is strong evidence of the orchestrated campaign against the Sudan spearheaded by the Eritrean regime on behalf of some international powers. The Eritrean regime has demonstrated an unprecedented ingratitude towards the Sudan, which has for decades helped the brotherly Eritrean people and up to this moment there are hundreds of thousands still taking refuge in the Sudan. It was not surprising, then, that the Special Rapporteur finds it helpful for his agenda to visit Eritrea (paragraph 5) to coordinate with the Eritrean regime in fabricating all kinds of allegations against the Sudan. The truth which is well known to the international community, and to the UNHCR, in particular, is the fact that the Government of the Sudan continued to bear the major burden of assisting the Eritrean refugees due to the reluctance of the donor community to live up to its responsibilities in this field. The Eritrean refugees are not confined to refugee camps, rather they are mixing with the Sudanese people in their towns and villages, sharing over 60% of the resources of the eastern States, and benefiting from all the services. Although we are fully convinced that it is the legitimate sovereign right of each state to put restrictions against foreigners' movements, including refugees, in some cases diplomats, the Sudan has never resorted to this right against any refugees, in particular the Eritrean refugees. Moreover, the Eritrean regime has been called upon repeatedly to allow for the free and voluntary repatriation of all the Eritrean refugees without exceptions, since the reasons for refuge are no longer prevailing, but it was reluctant because of the financial implications of such mass movement of refugees. Moreover, most if not all of the Eritrean refugees themselves would refer to stay in the Sudan rather than go back to Eritrea, and have made public statements to that effect, a matter which would refute the allegations raised by the Special Rapporteur in this connection.

140. The practice of exit visas to be obtained by every national is an ordinary practice and has been followed by all former governments in the Sudan as well as by many other countries, and as such it is not a violation of any right. As regards the registration of nationals in the Sudan Embassies, it is also a normal

practice intended for statistical purposes and for the well being of those nationals.

B. Abuses by parties to the conflict in southern Sudan other than the Government of the Sudan

141. The fact that the Special Rapporteur has reported about the violations of human rights by the rebel factions in only few brief paragraphs shows that he sympathizes with the rebel factions, in particular the SPLA mainstream of John Garang. The Special Rapporteur has avoided mentioning him when referring to the atrocities and violations committed by the rebel factions while he mentions, by name, the leaders of the other factions. That biased attitude was even more clear in paragraph 54 where he has hailed the signature of Garang and Machar of the ground-rules agreements with Operation Lifeline Sudan (OLS), without making reference to the quotation made in paragraph 67 of the OLS report contained in document A/50/464 dated 22 September 1995, quote, "The implications for the delivery of humanitarian assistance were grave indeed: since the beginning of 1995 there have been three serious incidents of kidnapping of OLS personnel of different factions and militia, as well as incidents of misappropriation of relief supplies, while the security repeatedly forced the evacuation of the relief workers." The Special Rapporteur has mentioned that a number of relief workers were kidnapped but stopped short of attributing the "misappropriation" of relief supplies to the rebel factions and militia.

142. Furthermore, the Special Rapporteur has also failed to report in detail the incidents of hostage-taking of relief workers by the rebel factions in the manner they were reported in paragraph 20 of the OLS abovementioned report. As well as failing to report, the fragmentation of rebel factions causing major disruptions in the OLS relief activities during the past year, and the security indicents that affected the safety of relief personnel, including shooting by rebel factions against UNICEF plane and looting relief cargo in areas not under government control in Bahar El Ghazal and upper Nile including the recent incidents occurring during March 1996.

143. The Special Rapporteur adamantly avoided any reference to the direct role and the responsibility of John Garang for the abduction and kidnapping of more than 20,000 children from southern Sudan. UNICEF and ICRC are engaged in their unification with their families as contained in paragraphs 59 and 60 of OLS report. The only conclusion which could be drawn in this regard is that the bias of the Special Rapporteur towards Garang's faction led him to cover-up Garang's crime of the century.

C. Restrictions upon the provision of humanitarian assistance in southern Sudan

144. Paragraphs 79-83 has included some new allegations to the effect that OLS relief activities have been severely hampered by flight restrictions imposed by the Government of the Sudan on 22 November 1995. In fact we have no better response to such allegations other than to quote paragraph 80 of the report of the Special Rapporteur, "On 5 December 1995, OLS...welcomed the Government's decision, announced earlier that afternoon, to lift restrictions on relief flights to southern Sudan from the OLS relief base in Lokichokio, northern Kenya. The OLS report mentioned that flight clearance procedures had returned to normal."

145. So the restrictions were imposed only for a very short period of time not exceeding two weeks according to the report itself, but the report stopped short of explaining why the restrictions were imposed. In fact it was only because most of the locations were all in Equatoria which is the scene of heavy fighting at that time between the Government of the Sudan and the rebel troops. Also the prohibition has included flights originating from Uganda because Uganda was heavily involved in providing support for the rebel troops. And despite those strong justifications the restrictions were lifted after a short period of time to substantiate the commitment of the Government of the Sudan to its obligations under OLS.

III. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

146. As mentioned and elaborated above, Mr. Gaspar Biro, the Special Rapporteur on the situation of human rights in the Sudan, has had free access to the Sudanese territory three times. However, following the presentation of his first report as Special Rapporteur on the situation of human rights in the Sudan to the Fiftieth session of the U.N. Commission on Human Rights in 1994 and as result of the contemptuous and blasphemous statements made therein against Islam and its laws, followed by his unwarranted and uncalled-for demand to abolish the application of Shariah in the Sudan the Government of the Sudan, there and then declared Mr. Gaspar Biro as an unacceptable person to visit the Sudan, and not to have any dealing of any kind with him.

147. However, in compliance with its international duties and obligations, as a member of the United Nations, the Sudan has requested from the competent United Nations bodies including this august body, to replace Mr. Gaspar Biro by appointing an experienced, impartial and dedicated person acceptable to the Government of the Sudan. It is to be emphasized, once again, that the Government of the Sudan is ready to co-operate with such an impartial and dedicated expert, if and when appointed and is also ready to consider any other alternatives.

148. Furthermore, and as we have already mentioned in paragraph 4 above, the Government of the Sudan has responded promptly to paragraph 2 of the resolution adopted by the Fiftieth session of the U.N. General Assembly by extending invitations to the Special Rapporteur of the Commission on Human Rights on Religious Intolerance and on Freedom of Expression (Annex 1 hereof) to visit the Sudan so as to guarantee regular and reliable flow of information about the situation of human rights in the Sudan. Therefore we see no justification whatsoever to place monitors in Kenya, Uganda, and Eritrea to guarantee flow of information as proposed by the Special Rapporteur.

149. The Government of the Sudan on previous occasions brought to the knowledge of the U.N. competent authorities including this august body, that Mr. Gaspar Biro, acting beyond the limits of his mandate, made himself an active actor in the domestic political affairs of the Sudan. To that end, he actively participated in a number of meetings, conferences and symposia organized by the so-called Sudanese opposition abroad, e.g. in cities like Washington, London, Bonn and another one is scheduled in Finland in April 1996. In that capacity, Mr. Gaspar Biro has always adopted a biased and hostile attitude against the Government of the Sudan.

150. To fulfill his personal goals and objectives, and not the goals and objectives of his mandate, Mr. Gaspar Biro takes as his primary source of information on the situation of human rights in the Sudan, elements of the so-called Sudanese opposition abroad and countries hostile to the Sudan. This attitude of the Special Rapporteur is well reflected in Paragraph 5 of his report. It is also shown by the fact that though there have been numerous developments in the Sudan in the field of human rights during the period covered by the report, the Special Rapporteur intentionally ignored those positive developments, and chose to focus on unverified allegations with the clear intention of distorting the image of the government.

151. Though the U.N. Commission on Human Rights extended the mandate of Mr. Gaspar Biro in March 1995 for another year, yet it is to be observed in paragraph 5 of his report that he made only a sixteen-day-trip to three neighbouring countries to the Sudan in order to accomplish the so-called fact-finding mission on the situation of human rights in the Sudan. Furthermore, considering the hearsay nature of information which is without corroboration of any kind, on which Mr. Gaspar Biro based his conclusions and recommendations, the Government of the Sudan concludes that the current report of the Special Rapporteur, as his previous reports which he has submitted to the Commission on Human Rights and the General Assembly, is a predetermined politically motivated document which lacks weight and credibility, and whose conclusions and recommendations vis-à-vis the Government, are nothing but fallacious and baseless allegations.

152. The conclusion made by Mr. Gaspar Biro in paragraph 91 that there is no improvement on the situation of human rights in the Sudan, especially in the Nuba mountains, is undoubtedly a preconceived idea which the Special Rapporteur failed to conceal. In this connection, we refer to paragraph 18 of the OLS report of 1995, which states: "United Nations assessments were conducted in April in government-held areas of southern Kordufan in response to reports of large numbers of displaced people from the Nuba mountains area. An estimated 100,000 Nuba displaced persons are in peace villages established by the Government of the Sudan..." Furthermore, the visit effected by forty (40) Heads of Diplomatic Missions accredited to the Sudan, to the State of southern Kordufan, where the Nuba Mountains area are situated, during the first week of November 1995, is no doubt a crystal clear event evidencing that the Special Rapporteur is living in a real nightmare in respect of the situation of human rights in the Sudan.

153. Despite the fact that it has been widely reported and published by the international media that inter-factional fights between various factions of the rebel movement, especially the so-called mainstream of the SPLA/A led by John Garang and the so-called South Sudan Independence Movement SSIM/A led by Riek Machar, has been and still is a major source of gross human rights violations and abuses among the civilian population in areas where there are rebel elements in the south of the country, yet the Special Rapporteur hesitantly devoted only a page in his report to the violations and atrocities committed by the rebels. This confirms not only the fact that Mr. Gaspar Biro associated himself with the so-called elements of opposition to the current Government in Khartoum, of which the rebels in the south are a part, but it also confirms his endeavour to cover up heinous crimes perpetrated by the SPLA/A mainstream, which have been strongly condemned by the international community, especially the abduction of more than 20'000 children to use as child soldiers and human shields.

154. The elaborate provisions of the Sudan Penal Code of 1991 mentioned above clearly expose the mal-intention of the Special Rapporteur in alleging passivity and acquiescence by the Government in what he called practices of slavery, servitude, slave trade, forced labour and similar institutions in the Sudan. However, the visits by both Pope Paul II and Dr. George Carey, the Archbishop of Canterbury to the Sudan have shown to the international community, except Mr. Gaspar Biro, that religious tolerance and cultural co-existence are among the virtues highly cherished by the people of the Sudan. Moreover, we have already explained above how the government of the Sudan has promptly complied with the request of the UN General Assembly to investigate the allegations leveled in that connection.

155. No fair-minded observer would describe normal military operations against military targets and elements of the rebel movement, with the declared purpose of overthrowing the government, as indiscriminate aerial

bombardments. Indeed, by making such false allegations against the government the Special Rapporteur does not even attempt to conceal his feelings of sympathy and support to the SPLA.

156. In view of the recommendations contained in paragraph 104 (j) of the report of the Special Rapporteur regarding the placement of monitors, the Government of the Sudan, while reaffirming once again, that it will abide by its duties and obligations in accordance with International Law, would like to state emphatically and unequivocally that it will never have any regard or deal with such recommendations if approved, and strongly believe that its invitation to two of the Special Rapporteurs of the Commission as called for by the UN General Assembly would guarantee a better and more reliable flow of information since such monitors, would have no means of verifying the majority of the allegations since such allegations deal with torture, unlawful detention, summary execution....etc. and could only be verified by visiting the country.

B. Recommendations

157. Considering the fact that the report of the Special Rapporteur under consideration is a hasty reproduction of baseless and groundless allegations, not supported by any credible and reliable information, with the mere intention of distorting and disfiguring the image of a member State, the Government of the Sudan, therefore, recommends the following:-

(i) That the Commission takes cognizance of the fact that the Government of the Sudan, while ready to co-operate with the competent United Nations institutions and agencies, especially those concerned with the issue of human rights, is not in a position to reverse its declared policy vis-à-vis the Special Rapporteur as long as he maintains his call for the abolition of Shariah legislation.

(ii) On the other hand, the Sudan strongly rejects and is opposed to the idea of deploying monitors in the three proposed locations or anywhere else to monitor the situation of human rights in the Sudan, for reasons well elaborated above especially the fact that there is a credible and reliable regular flow of information about the situation of human rights in the Sudan, and that such flow would be boosted further by the invitation extended by the Government of the Sudan to the two Special Rapporteurs of the Commission as called for by the UN General Assembly and its willingness to consider other invitations so as to cover the whole spectrum of human rights.

(iii) That the Commission should discontinue the mandate of the Spcial Rapporteur as being nothing more than waste of resources and encouragement of confrontational approach and a repitition of the same

old allegations without any verification or updating, or alternatively the Commission supports the initiative of the Government of the Sudan to engage in a dialogue to overcome the stalemate created by the remarks made by the Special Rapporteur regarding Shariah legislations in the Sudan.

(iv) That the Commission takes cognizance with appreciation of the cooperation of the Government of the Sudan by complying with paragraphs 2 and 14 of the UN General Assembly resolution and by responding positively to the requests of other UN entities working in the field of human rights.

(v) That the Commission takes cognizance also of the developments taking place in the Sudan in particular the fair, free and democratic election process commended by observers from the OAU, the Arab League and the OIC.

158. In conclusion, in the light of the information contained above, and in view of the unreserved co-operation by the Government of the Sudan with the relevant organs of the United Nations dealing with human rights, and considering the fact that the Sudan has once again reaffirmed its commitment to abide by the provisions of the various international legal instruments to which it is a party, the Government of the Sudan is, therefore, hopeful that this august body will favourably consider the above-mentioned recommendations.

THE AMBASSADOR
PERMANENT MISSION OF
SUDAN TO THE UN-GENEVA

السفـــــــير
بعثة السودان الدائمة لدى
الامم المتحدة - جنيف -

ANNEX - 1

Ref: 19.66/72.96

Geneva, 5 March 1996

Sir,

Subject: Invitation to visit the Sudan

I have the honour to convey to you, on behalf of the Consultative Council for Human Rights in the Republic of the Sudan, an invitation to visit the Sudan, on a date to be agreed upon in due course.

This invitation is in accordance with the operative paragraph (14) of the United Nations General Assembly Resolution No. A/c3/50/L58 passed during its fiftieth session, on the situation of Human Rights in the Sudan.

I would appreciate receiving your kind response, to enable me relay it to the Sudanese competent authorities.

Please accept my highest consideration.

Ali Ahmed Salloul
Ambassador
Permanent Representative

Mr. Abdel-Fattah Amor
Special Rapporteur
of the Commission on Human Rights
on Religious Intolerance

THE AMBASSADOR
PERMANENT MISSION OF
SUDAN TO THE UN-GENEVA

السفـــــــير
بعثة السودان الدائمة لدى
الامم المتحدة - جنيف -

ANNEX-1

Ref: 19.66/72.96

Geneva, 5 March 1996

Sir,

Subject: Invitation to visit the Sudan

I have the honour to convey to you, on behalf of the Consultative Council for Human Rights in the Republic of the Sudan, an invitation to visit the Sudan, on a date to be agreed upon in due course.

This invitation is in accordance with the operative paragraph (14) of the United Nations General Assembly Resolution No. A/c3/50/L58 passed during its fiftieth session, on the situation of Human Rights in the Sudan.

I would appreciate receiving your kind response, to enable me relay it to the Sudanese competent authorities.

Please accept my highest consideration.

Ali Ahmed Sahloul
Ambassador
Permanent Representative

Mr. Abid Hussein
Special Rapporteur
of the Commission on Human Rights
on the Promotion and protection of the Right
of Freedom of Opinion and Expression

ANNEX - 2

REPUBLIC
of the SUDAN

Permanent Mission to U.N. Office
GENEVA

49, AVENUE BLANC
1202 GENÈVE
CASE POSTALE 335
CH-1211 GENÈVE 19
TEL.: (022) 731 26 66 / 63
TELEX: 414 124 SUDN CH
FAX: (022) 731 26 56

البعثـــه الدائمه
لجمهورية السودان
جيـــف

الرقم/ ب س ج /
التاريخ

Ref: 19.66/98.96

The Permanent Mission of the Republic of the Sudan to the United Nations Office and other International Organizations in Geneva presents its compliments to the Centre for Human Rights and further to this Mission note No. 19.66/80.96 dated 11 March 1996 regarding the Ministerial Decree issued by H.E. the Minister of Justice, Republic of the Sudan, forming a special committee to carry out investigations to clarify the alleged fate and whereabouts of the reported 249 cases of disappearance of the Nuba Tribe members, has the honour to inform that another Ministerial Decree has been issued by the Minister of Justice extending the mandate of the same Special Committee to investigate also on the alleged cases of slavery and related practices in the Sudan, as well as to propose necessary measures to immediately put an end to these practices in case they are proved.

It has to be noticed that this Ministerial Decree was issued in implementation to paragraph (2) of the General Assembly Resolution on the situation of Human Rights in the Sudan, which was adopted during its fiftieth session.

The Centre is kindly requested to include this information in its relevant documentation.

The Permanent Mission of the Republic of the Sudan avails itself of this opportunity to renew to the Centre for Human Rights the assurances of its highest consideration.

Geneva, 22 March 1996

Centre for Human Rights
Palais des Nations
GENEVA

PERMANENT MISSION TO U.N. OFFICE

ANNEX-2

بسم الله الرحمن الرحيم

قرارات وزير العدل النائب العام
رئيس المجلس الاستشاري لحقوق الانسان
قرار رقم (٣) لسنة ١٩٩٦

عملا بالسلطات المخولة لنا بموجب قانون النائب العام لسنة ١٩٨٣ ، وتنفيذا للفقرة العاملة رقم (٢) من قرار الجمعية العامة للامم المتحدة حول حالة حقوق الانسان فى السودان الصادر عن دورتها الخمسين فقد تقرر الاتى :-

يعدل قرارنا رقم (١) لسنة ١٩٩٦ بحيث يشمل اختصاص اللجنة المشكلة بموجب ذلك القرار التحقيق بدون تأخير فى حالات الرق والعبودية وتجارة الرقيق والممارسات الشبيهة بذلك التى يسترعى اليها انتباه حكومة السودان حسبما ورد فى الفقرة العاملة رقم (٢) من قرار الجمعية العامة للامم المتحدة المشار اليه اعلاه وعلى اللجنة ان تقترح التدابير المناسبة لوضع حد فورى لتلك الممارسات فى حالة ثبوتها .

صدر تحت توقيعى فى هذا اليوم الخامس من شهر مارس سنة ١٩٩٦ .

د٠ أحمد المفتى

وزير العدل النائب العام

جمهورية السودان
المكتب التنفيذي
10 MAR 1996
Dispatch
ديوان النائب العام

THE AMBASSADOR
PERMANENT MISSION OF
SUDAN TO THE UN-GENEVA

السفير
بعثة السودان الدائمة لدى
الامم المتحدة - جنيف -

ANNEX-3

Ref: 19.66/75.96

Geneva, 6 March 1996

Excellency,

Subject: United Nations Decade for Human Rights

With reference to Your Excellency letter No. G/SO 214(88-1) dated 6 November 1995, and its enclosure a letter addressed to H.E. Lt. General Omer Hassan Ahmed Al-Bashir, President of the Republic of the Sudan, No. G/SO 214(88-1) dated 31 October 1995, regarding the aforementioned subject, I have the honour to inform you that the matter has been given due consideration by the highest authorities in the Sudan, and that the Consultative Council for Human Rights has decided in its thirty-third meeting, held on 15 January 1996, to commence immediately in establishing National Committees for human rights education on states level. Your Excellency would be informed in due course about the composition of these national committees and their plans of action. Therefore the Consultative Council for Human Rights in the Sudan requests that technical and financial assistance from the Centre for Human Rights be made available to support the Sudan's efforts in implementing the United Nations Decade for Human Rights.

I would appreciate that this commitment of the Sudan is included in your report as I would also appreciate receiving your response regarding the request for technical and financial support, to enable me inform the Sudanese competent authorities.

Please accept, Excellency, the assurances of my highest consideration.

Ali Ahmed Sahloul
Permanent Representative

Mr. Jose Ayala-Lasso
High Commissioner for Human Rights
Centre for Human Rights
Palais des Nations
GENEVA

REPUBLIC
of the SUDAN

nent Mission to U.N. Office
GENEVA

VENUE BLANC
GENÈVE
E POSTALE 335
211 GENÈVE 19
(022) 731 26 66 / 63
X: 414 124 SUDN CH
(022) 731 26 56

ANNEX-4

البعثـــه الدائمه
لجمهورية السودان
جنيـــف

الرقم/ ب س ج /
التاريخ

Ref: 19.66/80.96

The Permanent Mission of the Republic of the Sudan to the United Nations Office and other International Organizations in Geneva presents its compliments to the Centre for Human Rights, and with reference to the latter's letter No. G/SO 217/1 SUDA dated 11 December 1995, addressed to this Mission on behalf of Mr. Ivan Tosevski, Chairman, Working Group on Enforced or Involuntary Disappearances, and its annexes, regarding the reported 249 cases of disappearance of the Nuba Tribe members, alleged to have been abducted from the village of Toror in February 1995 by the Armed Forces of the Government of the Sudan, has the honour to inform that the Minister of Justice, Republic of the Sudan has recently issued a Ministerial Decree forming a special Committee to carry out investigations in order to clarify the alleged fate and whereabouts of these persons. The Working Group would be informed, in due course, about the outcome of investigations.

It is worthmentioning that the Special Committee is composed of the following:

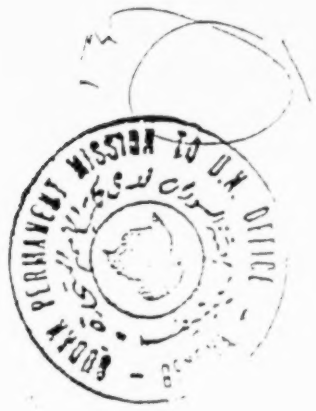
. Representative of the Ministry of Justice, Chairman'
. Representative of External Security Organ, member
. Representative of Internal Security Organ, member
. Representative of Military Intelligence, member
. Representative of the Ministry of Interior, member

The Mission of the Republic of the Sudan would appreciate if this information could be forwarded to the Chairman of the Working Group on enforced or Involuntary Disappearances to include it in his report, as well as in the relevant documentation.

The Permanent Mission of the Republic of the Sudan avails itself of this opportunity to renew to the Centre for Human Rights the assurances of its highest consideration.

Geneva, 11 March 1996

Attn: Mr. Georg Mautner-Markhof
Chief, Special Procedures Branch
Centre for Human Rights
Palais des Nations - GENEVA



REPUBLIC
of the SUDAN

Permanent Mission to U.N. Office
GENEVA

49, AVENUE BLANC
1202 GENÈVE
CASE POSTALE 335
CH-1211 GENÈVE 19
TEL.: (022) 731 26 66 / 63
TELEX: 414 124 SUDN CH
FAX (022) 731 26 56

البعثـــه الدائمـه
لجمهورية السودان
جنيـــف

ANNEX - 5

الرقم/ ب س ج /
التاريخ

Ref. 19.66/101.96

The Permanent Mission of the Republic of the Sudan to the United Nations Office and other International Organizations in Geneva presents its compliments to the Centre for Human Rights and further to this Mission's note No. 19.66/80.96 dated 11 March 1996, has the honour to inform that the Special Committee to carry-out investigation on the 249 reported cases of disappearances of the Nuba Tribe Members has held its first meeting on 10 March 1996, and after examining the information received from the Working Group on Enforced or Involuntary Disappearances has found the following:-

1. that the number of cases enclosed with the letter of the Working Group was 240 and not 249 as stated.

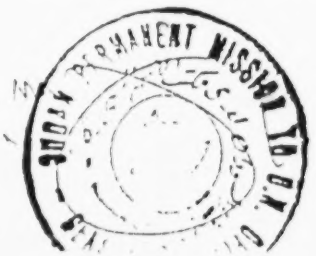
2. the Committee has taken many immediate steps, one of them was that the names of the alleged disappeared persons have been sent to the Peace Department in Kordofan State, in order to identify the Peace Camps and to inform whether such persons are in these camps.

The Centre is kindly requested to forward this information to the Chairman of the Working Group on Enforced or Involuntary Disappearance to include it in its report, as well as in the relevant documentation.

The Permanent Mission of the Republic of the Sudan avails itself of this opportunity to renew to the Centre for Human Rights the assurances of its highest consideration.

Geneva, 25 March 1996

To: Centre for Human Rights
Palais des Nations
GENEVA



ANNEX-5

وزارة العدل ديوان النائب العام

لجنة التحريات حول حالات الاختفاء القسري

تلفون ٧٧٥٢٣٠ الخرطوم

التاريخ/١٠/٣/١٩٩٦م

النمرة د ن ع/لت ل إ ق/١

الاجتماع الاول للجنة

١- الحضور

ياسر سيد احمد الحسن	•
حسبن ابراهيم ادم	•
عبد الحليم جمعة	معتذرا
ممثل الاستخبارات العسكرية	غياب
ممثل وزارة الداخلية	غياب

٢- بحث الاجتماع خطاب فريق العمل المعني بحالات الاختفاء القسري ومرفقاته وتوصل للحقائق التالية:-

عدد الحالات المرفقة هي ٣٤٠حالة وليس ٣٤٩ حالة كما جاء بخطاب الفريق المعني وذلك وفق الارقام التالية :-

الرقم المسلسل للقضية	عدد الحالات
من الرقم ١٩٣ الى الرقم ٢٥٠	٥٩
من الرقم ٣٦٩ الى الرقم ٤٦٤	٩٥
من الرقم ٤٧٣ الى الرقم ٤٩٣	٢١
من الرقم ٤٩٤ الى الرقم ٤٩٨	٠٥
من الرقم ٥٠٠ الى الرقم ٥٠٢	٠٣
من الرقم ٥٠٤ الى الرقم ٥٣١	٢٨
من الرقم ٥٣٣ الى الرقم ٥٥٩	٣٧
الرقم ١٦٥٥٠	٠١
المجموع	٣٤٠

٣- الاسماء وفقا للكشف المرفق

٤- اسباب الحالات الاختفاء كما جاء بخطاب فريق العمل اختطاف

٥- الجهات المسئولة عن الاختطاف القوات المسلحة

٦- مكان الاختفاء اقليم ام قربان - قرية طرور

٧- تاريخ الاختفاء ١٩٩٥/٢/٢٨م

٨- مصدر المعلومات African Rights England

٩- تاريخ توصيل المعلومات ١٩٩٥/١٢/١١م

١٠- الادعاءات المذكورين قد تم ترحيلهم الى قرى ام سريبد ، عقب وام دورين

١١- الاجراءات التي تم اتخاذها:-

(أ) الاتصال بوزارة الداخلية والاستخبارات العسكريةلتحديد ممثليهما في هذه اللجنة وحثهما على الحضور.

(ب) تم ارسال الاسماء الى ادارة السلام بولاية جنوب كردفان لتحديد موقع المعسكرات المذكورة والافادة عن وجود هولاء المواطنين بهذه المعسكرات .

ياسر سيد احمد

رئيس اللجنة

صورة الى:-

وزير العدل النائب العام.

مدير عام جهاز الامن الخارجي.